

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**DARILE JOHNSON**

**PLAINTIFF**

**v.**

**CAUSE NO. 3:16cv395-LG-LRA**

**MARSHALL FISHER**

**DEFENDANT**

**ORDER ADOPTING REPORT AND RECOMMENDATION**

This cause comes before the Court on the [14] Report and Recommendation of United States Magistrate Judge Linda R. Anderson. On May 27, 2016, Plaintiff Darile Johnson filed a Petition for Writ of Habeas Corpus. Defendant Marshall Fisher moved to dismiss the Petition.

On October 31, 2016, Magistrate Judge Anderson recommended that this Court grant the Motion to Dismiss because Johnson failed to exhaust his state court remedies before filing his Petition. (*See Rep. & Rec.*, ECF No. 14). Johnson has not filed an objection to the Report and Recommendation, and the time for doing so has expired.

Where no party has objected to the Magistrate Judge's Report, the Court need not conduct a de novo review of it. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only review the Report and determine whether it is either clearly erroneous or contrary to law. *See, e.g., United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court is of the opinion that Magistrate Judge Anderson's Report is neither clearly erroneous nor contrary to law. Accordingly, the Court finds that Petitioner Johnson's [1] Petition for Writ of Habeas Corpus should be dismissed and that the [14] Proposed Report and Recommendations of Magistrate Judge Anderson should be adopted as the opinion of this Court.

**IT IS THEREFORE ORDERED AND ADJUDGED** that the [14] Report and Recommendation of United States Magistrate Judge Linda R. Anderson entered in this cause on October 31, 2016, should be, and hereby is, adopted as the opinion of this Court.

**IT IS FURTHER ORDERED AND ADJUDGED** that Plaintiff Darile Johnson's [1] 28 U.S.C. § 2254 habeas corpus petition is **DISMISSED WITHOUT PREJUDICE**. A separate judgment will be entered.

**SO ORDERED AND ADJUDGED** this the 21<sup>st</sup> day of November, 2016.

s/ *Louis Guirola, Jr.*  
LOUIS GUIROLA, JR.  
CHIEF U.S. DISTRICT JUDGE